

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 2459 - HB 2377

March 8, 2014

SUMMARY OF BILL: Adds “criminal gang crimes” to the statement of legislative intent in Tenn. Code Ann. § 39-12-202, the “Racketeer Influenced and Corrupt Organization (RICO) Act of 1989.”

Lengthens the time that can elapse between incidents of racketeering conduct from two years to five years. Redefines “racketeering activity” to specifically list offenses that are meant to constitute a “criminal gang offense” under Tenn. Code Ann. § 39-12-203.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$542,400/Incarceration*

Assumptions:

- According to the Department of Correction (DOC), the offenses that constitute a “criminal gang offense,” as defined in Tenn. Code Ann. § 40-35-121(a) have averaged 4,769.3 admissions over the last 10 years. It is assumed that three percent, 143 admissions, were committed by gang members ($4,769.3 \times .03$). It is further assumed that five percent, 7 admissions, will result in admissions for RICO violations in addition to the predicate offense ($207 \times .05$).
- According to DOC, the average operating cost per offender per day for calendar year 2014 is \$66.29.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one additional admission ($7 \times .1178$) for a total of 8 ($7 + 1$).
- RICO is a Class B felony. The average time served for a Class B felony is 5.6 years.
- According to the DOC, 48.29 percent of offenders will re-offend within three years of their release. A recidivism discount of 48.29 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ($8 \text{ offenders} \times .4829 = 4 \text{ offenders}$).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on four offenders [$8 \text{ offenders} - 4 \text{ (recidivism discount)}$] serving an additional

5.6 years (2,045.4 days) for a total of \$135,589.57 (\$66.29 x 2,045.4 days). The cost for four offenders is \$542,358.28 (\$135,589.57 x 4).

- Due to the low number of convictions the bill would result in, it is assumed that the courts, district attorneys, and public defenders can accommodate any impact to their caseloads within existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise".

Lucian D. Geise, Executive Director

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